

Remarks

Applicants have canceled withdrawn claims 9-10, 15-17, 19, and 21, and pending claims 22-33 and 41-43 without prejudice or disclaimer. Claim 34 has been rewritten into independent form, and claim 44 has been amended to depend from claim 34 rather than from claim 32. No new matter has been added.

Claims 34-40 and 44-45, are pending; claims 36-40 and 45 have been allowed, and the Examiner has indicated that the subject matter of claims 34-35 (and presumably claim 44 as presently amended) would be allowable if claim 34 was rewritten into independent form.

I. Rejection of Claims 22-31 and 43 Under 35 U.S.C. § 112, First Paragraph

The Examiner has rejected claims 22-31 and 43 under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description and enablement requirements.

In response, while Applicants maintain that these claims fully complied with 35 U.S.C. § 112, claims 22-31 and 43 have been canceled without prejudice or disclaimer, thereby obviating any rejection of such claims. Applicants maintain the right to pursue the canceled subject matter in one or more continuing applications. Since claims 22-31 and 43 are no longer pending, the instant rejection is moot; Applicants respectfully request that the Examiner reconsider and withdraw the rejection.

II. Rejection of Claims 32-33, 41, and 44 Under 35 U.S.C. § 102(b)

The Examiner has rejected claims 32-33, 41, and 44 under 35 U.S.C. § 102(b) as allegedly anticipated by Marconi et al.

In response, Applicants point out that claims 32-33 and 41 have been canceled without prejudice or disclaimer, thereby obviating any rejection of such claims. Applicants maintain the right to pursue the canceled subject matter in one or more continuing applications. Moreover, claim 44 has been amended to depend from claim 34, rather than rejected claim 32. Accordingly, the pending claims cannot be said to read on Marconi et al., and Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection.

Conclusion

In view of the foregoing, Applicants believe that this application is now in condition for allowance, and an early notice to that effect is urged. The Examiner is invited to call the

undersigned at the phone number provided below if any further action by Applicants would expedite the issuance of this application.

If there are any fees due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 08-3425; if a fee is required for an extension of time under 37 C.F.R. § 1.136, such an extension is requested and the appropriate fee should also be charged to our Deposit Account.

Dated: June 22, 2004

Respectfully submitted,

By Mark J. Hyman
Mark J. Hyman
Registration No.: 46,789
HUMAN GENOME SCIENCES, INC.
14200 Shady Grove Road
Rockville, Maryland 20850
(240) 314-1224

CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. § 1.8

1. Fax Cover Sheet
2. Fee Transmittal Sheet
3. Amendment Under 37 C.F.R. § 1.111

I hereby certify that the above-listed correspondence is being facsimile transmitted to the United States Patent and Trademark Office on June 22, 2004.



Mark J. Hyman
Registration No.: 46,789
HUMAN GENOME SCIENCES, INC.
14200 Shady Grove Road
Rockville, Maryland 20850
(240) 314-1224